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**PRELIMINARY DRAFT  
No. 3065**

**PREPARED BY  
LEGISLATIVE SERVICES AGENCY  
2008 GENERAL ASSEMBLY**

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**DIGEST**

**Citations Affected:** IC 5-10.2-4-3.

**Synopsis:** Average of the annual compensation for PERF. Reduces from 20 to 12 the number of calendar quarters used by the public employees' retirement fund (PERF) in the computation of the "average of the annual compensation".

**Effective:** July 1, 2008.



A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 5-10.2-4-3, AS AMENDED BY P.L.2-2007,  
2       SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2008]: Sec. 3. (a) Except as provided in subsection ~~(f)~~, **(g)**, in  
4       computing the retirement benefit for a nonteacher member **who retires**  
5       **before January 1, 2009**, "average of the annual compensation" means  
6       the average annual compensation calculated using the twenty (20)  
7       calendar quarters of service in a position covered by the retirement  
8       fund before retirement in which the member's annual compensation  
9       was the highest. However, in order for a quarter to be included in the  
10      twenty (20) calendar quarters, the nonteacher member must have  
11      performed service throughout the calendar quarter. All twenty (20)  
12      calendar quarters do not have to be continuous but they must be in  
13      groups of four (4) consecutive calendar quarters. The same calendar  
14      quarter may not be included in two (2) different groups.

15      **(b) Except as provided in subsection (g), in computing the**  
16      **retirement benefit for a nonteacher member who retires after**  
17      **December 31, 2008, "average of the annual compensation" means**  
18      **the average annual compensation calculated using the twelve (12)**  
19      **calendar quarters of service in a position covered by the retirement**  
20      **fund before retirement in which the member's annual**  
21      **compensation was the highest. However, in order for a quarter to**  
22      **be included in the twelve (12) calendar quarters, the nonteacher**  
23      **member must have performed service throughout the calendar**  
24      **quarter. All twelve (12) calendar quarters do not have to be**  
25      **continuous but they must be in groups of four (4) consecutive**  
26      **calendar quarters. The same calendar quarter may not be included**  
27      **in two (2) different groups.**

28      ~~(b)~~ **(c)** This subsection does not apply to a teacher member  
29      described in subsection ~~(c)~~: **(d)**. In computing the retirement benefit for  
30      a teacher member, "average of the annual compensation" means the  
31      average annual compensation for the five (5) years of service before



retirement in which the member's annual compensation was highest. In order for a year to be included in the five (5) years, the teacher member must have received for the year credit under IC 5-10.4-4-2 for at least one-half (1/2) year of service. The five (5) years do not have to be continuous.

~~(c)~~ (d) This subsection applies to a member of the Indiana state teachers' retirement fund who serves in an elected position for which the member takes an unpaid leave of absence. In computing the retirement benefit for a teacher member described in this subsection for years of service to which IC 5-10.4-5-7 does not apply, "average of the annual compensation" means the annual compensation for the one (1) year of service before retirement in which the member's annual compensation was highest. In order for a year to be used, the teacher member must have received for the year credit under IC 5-10.4-4-2 for at least one-half (1/2) year of service.

~~(d)~~ (e) Subject to IC 5-10.2-2-1.5, "annual compensation" means:

(1) the basic salary earned by and paid to the member plus the amount that would have been part of that salary but for:

(A) the state's, a school corporation's, a participating political subdivision's, or a state educational institution's paying the member's contribution to the fund for the member; or

(B) the member's salary reduction agreement established under Section 125, 403(b), or 457 of the Internal Revenue Code; and

(2) in the case of a member described in subsection ~~(c)~~ (d) and for years of service to which IC 5-10.4-5-7 does not apply, the basic salary that was not paid during the year but would have been paid to the member during the year under the member's employment contracts, if the member had not taken any unpaid leave of absence to serve in an elected position.

The portion of a back pay award or a similar award that the board determines is compensation under an agreement or under a judicial or an administrative proceeding shall be allocated by the board among the years the member earned or should have earned the compensation. Only that portion of the award allocated to the year the award is made is considered to have been earned during the year the award was made. Interest on an award is not considered annual compensation for any year.

~~(e)~~ (f) Compensation of not more than two thousand dollars (\$2,000) received from the employer in contemplation of the member's retirement, including severance pay, termination pay, retirement bonus, or commutation of unused sick leave or personal leave, may be included in the total annual compensation from which the average of the annual compensation is determined, if it is received:

(1) before the member ceases service; or

(2) within twelve (12) months after the member ceases service.

~~(f)~~ (g) This subsection applies to a member of the general assembly:



- 1 (1) who is a participant in the legislators' retirement system
- 2 established under IC 2-3.5;
- 3 (2) who is also a member of the public employees' retirement fund
- 4 or the Indiana state teachers' retirement fund; and
- 5 (3) whose years of service in the general assembly may not be
- 6 considered in determining the average of the annual
- 7 compensation under this section, as provided in
- 8 IC 2-3.5-1-2(b)(2) or IC 2-3.5-3-1(c).
- 9 The board shall use the board's actuarial salary increase assumption to
- 10 project the salary for any previous year needed to determine the
- 11 average of the annual compensation.

